

Application No. 10/806,267
Supplemental Remarks and attached Declaration under 37 C.F.R. § 1.132

Docket No.: KKP-0276

nonpermeable surface, in comparison with an identical pen having a ball with a surface roughness of greater than 5 nm, when used in conjunction with the ink composition of claim 1.


U.S. Patent No. 5,678,942 to Kobayashi et al. ("Kobayashi"), which discloses a ball-point pen, fails to disclose, teach, or even suggest a ball-point pen having a ball with a surface roughness of 5 nm or less, as claimed in claim 1 of the present Application. The Final Office Action of December 7, 2006 acknowledges, on page 6, that Kobayashi does not disclose a ball having a surface roughness of 5 nm or less. Further, none of the prior art references cited by the Examiner cure the deficiencies of Kobayashi described above.

Accordingly, in view of the evidence of unexpected and superior results provided in the attached 132 Declaration, withdrawal of the rejection of claim 1 is respectfully requested. *See, e.g., In re Soni*, 54 F.3d 746, 34 USPQ2d 1684 (Fed. Cir. 1995) ("[W]hen an applicant demonstrates substantially improved results... and states that the results were unexpected, this should suffice to establish unexpected results in the absence of evidence to the contrary"); *Id.* ("that which would have been surprising to a person of ordinary skill in a particular art would not have been obvious.").

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. KKP-0276 from which the undersigned is authorized to draw.

Dated: April 12, 2007

Respectfully submitted,

By 

Christopher J. Wickstrom

Registration No.: 57,199

RADER, FISMAN & GRAUER PLLC
1233 20th Street, N.W., Suite 501
Washington, DC 20036
(202) 955-3750

Attachment: Declaration under 37 C.F.R. § 1.132 (5 pages)